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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 ) MD Docket No. 95-3  
Assessment and Collection )  
of Regulatory Fees for )  
Fiscal Year 1995 )

COMMENTS OF  
SOUTHWESTERN BELL CORPORATION

Southwestern Bell Corporation ("SBC"), on behalf of its operating subsidiaries Southwestern Bell Telephone Company and Southwestern Bell Mobile Systems, Inc., submits these Comments in response to the Commission's Notice of Proposed Rulemaking regarding the assessment and collection of regulatory fees for Fiscal Year 1995.<sup>1</sup> In that Notice, the Commission proposed two new methods for calculating regulatory fees to be paid by non-mobile providers of interstate services and requested comment concerning the most efficient and equitable method for assessment of such fees. SBC submits the following Comments addressing those inquiries.

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<sup>1</sup>Notice of Proposed Rulemaking, In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 1995, MD Docket No. 95-3 (released January 12, 1995).

I. REGULATORY FEES FOR NON-MOBILE PROVIDERS OF INTERSTATE SERVICES SHOULD BE ASSESSED BASED ON INTERSTATE REVENUE.

SBC submits that the most equitable method of collecting regulatory fees for non-mobile providers of interstate services would be the use of a shared funding mechanism based on providers' revenues from interstate services subscribers.

The Commission correctly stated in its Notice that "[w]e now believe that resellers and other carriers providing interstate services subject to our jurisdiction and directly benefitting from our regulation of the interstate network should be subject to a regulatory fee payment."<sup>2</sup> The category of parties paying these regulatory fees should include all non-mobile providers of interstate telecommunications services, including competitive access providers ("CAPs"), interexchange carriers ("IXCs"), local exchange carriers ("LECs"), operator services providers ("OSPs"), pay telephone providers, and resellers. This category should include all parties listed in the "Carrier Locator: Interstate Service Providers" provided by the Commission.

SBC suggests the following methodology for calculating regulatory fees to be paid by non-mobile providers of interstate services: Total interstate revenues should be multiplied by a fee rate, calculated by the Commission, needed to recover the amount of \$39,395,321, which constitutes the costs allocated to these service providers for the Commission's services. While SBC opposes utilizing total interstate revenues as the allocator for the funding of general support mechanisms, SBC proposes the use of total interstate revenues for the limited purpose of

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<sup>2</sup>Notice, para. 56.

allocating Commission regulatory fees.<sup>3</sup> Given the size of regulatory fees compared to other funding obligations and the difficulty of administering the other methods proposed by the Commission, SBC believes that, for the limited purpose of funding the Commission's regulatory activities, the utilization of total interstate revenues as an allocator is a simple and equitable methodology.

The cost allocation for Domestic Public Fixed Radio can be based on a per-call-sign basis as the Commission has proposed; however, to ease reporting burdens, each company should be required to report the entire fee owed for its call signs on only one Form 159 by listing the appropriate payment type code, the total number of call signs, and the total fee amount. If necessary, a detailed listing of all call signs could be attached to the single Form 159<sup>4</sup>.

The allocation method proposed above for regulatory fees to be paid by non-mobile providers of interstate services -- based on interstate revenues -- offers the following advantages: (1) The allocation method would be simple to administer; (2) The method could be applied appropriately to all such parties that benefit from the Commission's regulation; (3) The method

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<sup>3</sup>The use of total interstate revenues for funding allocation methods may lead to market distortions and therefore, to economic inefficiency. The economically efficient method is to place the "tax burden" where it causes the least harm, i.e., on final services (e.g., toll services) and not on intermediate services (e.g., access services). Moreover, placing a "tax burden" on one form of access service and not on another will lead to inefficient investment decisions by purchasers of access. Therefore, funding allocations should be based on final output services (i.e., "retail" services).

<sup>4</sup>This point is similar to the clarification requested with respect to public mobile radio, Section IV below.

does not unfairly burden any of the parties; and (4) The method overcomes the problems associated with the two methods proposed by the Commission, as explained below.

**II. THE TWO METHODS PROPOSED BY THE COMMISSION FOR CALCULATING REGULATORY FEES OF NON-MOBILE PROVIDERS OF INTERSTATE SERVICES PRESENT CALCULATION PROBLEMS BECAUSE OF TECHNOLOGICAL AND INTERPRETATIONAL DIFFERENCES.**

**A. Customer Units Method**

The first calculation alternative proposed by the Commission is to base fees on customer units. For LECs, customer units would equate to the number of access lines plus Voice Grade Equivalent Lines for Special Access. For IXC's, customer units would equate to presubscribed lines, and for other switched services, such as WATS, 800, and 900, customer units would equate to billing accounts less those accounts already associated with presubscribed lines reported by the carrier.

If the customer units method were adopted, the Commission should redefine what constitutes a billing account for the IXC's WATS, 800, and 900 switched services. Under the Commission's current definition, an IXC would be able to count a single billing account as one customer unit, despite the fact that the account may have thousands of Voice Grade Equivalent Lines and millions of dollars of interstate revenue. If the customer units method were selected, the Commission should examine the relationship between the number of equivalent circuits and billing accounts to determine the number of customer units for purposes of assessing regulatory fees. Otherwise, in its current form, the customer units method disproportionately and unfairly equates LEC special access customers to the high capacity end user customers of IXC's and CAPs.

Additionally, the Commission proposed to measure CAPs' fees based on the number of Voice Grade Equivalents (64 Kbs) total capacity provided to customers. The Commission would need to specify an unambiguous definition of total capacity. For example, a Voice Grade Equivalent (VGE) line is a measurement that is used to compare newer, high-speed digital capacity and provisioning to more traditionally provisioned services. In the past, one service required one circuit. The circuit may have two or four wires, but is counted as one circuit. These were called Voice Grade circuits as long as they were within the 4KHz bandwidth of the circuit. Several circuit types do not use all of the Voice Grade Equivalent bandwidth, but are traditionally provisioned on one circuit. Therefore, calculating Voice Grade Equivalents based on 64 kbps of a digital bit stream provides an estimate of the digital facilities capacity, but does not necessarily represent the number of circuits that are carried on the facility.

If the customer units method were adopted, the Commission would also need to recalculate the total number of customer units. The Commission has arrived at a calculation of 300,000,000 customer units, which equates to a fee of \$0.13 per customer unit. The Commission's calculation does not appear to properly take into account voice grade equivalents for LECs, IXC, or CAPs. For example, the private line services provided by the IXCs are not included in the Commission's calculation. Also, for each LEC interLATA special access line voice grade equivalent, there should be approximately one IXC voice grade equivalent. If the Commission uses the customer units method, then it would need to account for these additional "customer units" and would need to recalculate and adjust downward the fee per customer unit.

**B. Minutes of Use Method**

This method proposed by the Commission would calculate customer units for LECs based on originating and terminating access minutes of use and for those interstate services not billed on the basis of timed usage, minutes would be estimated as the billed revenue in dollars times a factor of 10.

For IXC's, this method proposes to calculate fees based on billed minutes, and for those interstate services not billed on the basis of timed usage, minutes would be estimated as the billed revenue dollars times 10. This method discriminates against the LECs, because the LEC is charged with both the originating and terminating minute of use, while the IXC would only count billed minutes. For example, for a 30 minute call from Kansas City to Oklahoma City on AT&T's circuit, Southwestern Bell Telephone Company would pay fees based on 30 minutes originating minutes of use and 30 minutes terminating minutes of use, for a total of 60 minutes; while AT&T would only pay fees based on 30 minutes. Additionally, this method applies a much higher "tax" on a LEC minute than an IXC minute, because a LEC minute derives much less revenue than an IXC minute.

**III. THE BUREAU SHOULD ISSUE SPECIAL PERMISSION TO ALLOW AN ERRATUM FILING AFTER MARCH 31, 1995, OR IN ITS ANNUAL FILING COMPLIANCE ORDER.**

LECs were required to pay their regulatory fees for Fiscal Year 1994 on August 17, 1994. The Common Carrier Bureau subsequently issued a waiver permitting price cap carriers to treat these initial fees as an exogenous cost.<sup>5</sup> The Waiver Order requires that exogenous cost

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<sup>5</sup>In the Matter of Price Cap Treatment of Regulatory Fees Imposed by Section 9 of the Communications Act, DA 94-1119, released October 7, 1994, (Waiver Order) para. 1.

adjustments for future changes in the level of regulatory fees should be included in a carrier's annual price cap tariff filing.<sup>6</sup> At this point, the timing of the Commission's order on the exact level of 1995 fees is not known. The Fiscal Year 1995 fees will probably be due in August and the level of these fees may be known just after the March 31 Annual Filing date. An administratively simple solution would be to allow an erratum filing after March 31, 1995 or in response to the Commission's Compliance Order normally issued in June, if either option were a workable solution.

#### IV. THE COMMISSION SHOULD TAKE THIS OPPORTUNITY TO INCORPORATE INTO THE RULES ITS AUGUST 16, 1994 CLARIFICATION REGARDING THE REPORTING OF PUBLIC MOBILE SUBSCRIBERS

On August 12, 1994, the Commission issued a Public Notice regarding the procedures for filing regulatory fees; the Notice included a clarification regarding reporting the total number of Public Mobile subscribers. Specifically, the Commission stated that:

Public mobile providers must account for all of the call signs in their systems as well as the total number of subscribers. Accordingly, public mobile providers must list all the call signs for their systems on the 159/159-C, and may distribute the total number of subscribers to these call signs in one of the following ways: (1) allocate one subscriber to every call sign, except one, and allocate the remainder of the subscribers to the remaining call sign, or (2) determine the average number of subscribers per call sign and use this number of subscribers for each call [sic]. The filer is ultimately responsible for documenting their fee payment. (Note: Whole numbers must be used in the "Quantity" block.)<sup>7</sup>

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(Erratum released November 2, 1994)

<sup>6</sup>Id., para. 5.

<sup>7</sup>Public Notice issued August 16, 1994: The Most Commonly Asked Questions and Responses about FCC Regulatory Fees.

This clarification was in response to Petitions for Reconsideration filed in the 1994 Regulatory Fees Docket, which raised proprietary concerns regarding reporting the number of subscribers by system.<sup>8</sup> As explained in the Petitions for Reconsideration and in the initial Comments, cellular carriers guard their market specific subscriber counts as competitively sensitive financial information. The Commission recognized the sensitivity of the information in the above-cited clarification. The Commission should incorporate the clarification into its rules to avoid any confusion in the future.

## V. CONCLUSION

The Commission should assess regulatory fees for non-mobile providers of interstate services based on interstate revenues, and all providers of such services should share in the funding of the services provided by the Commission.

Should the Commission determine that one of its two proposed methods -- either customer units or minutes of use -- must be used to calculate the regulatory fees of non-mobile providers of interstate services, then with the modifications outlined in Section II(A) above, SBC could support the customer units method. The minutes of use method contains major hurdles which would be difficult to overcome; therefore, SBC cannot support this method for calculating regulatory fees.

The Commission should issue special permission to allow an erratum filing after March 31, 1995, or in its annual filing compliance order, if either option is workable.

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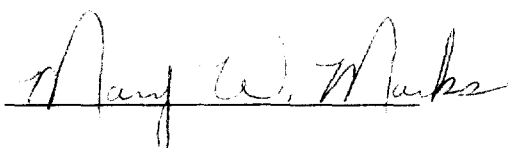
<sup>8</sup>Petition for Reconsideration of the Cellular Telecommunications Industry Association, MD Docket No. 94-19, filed July 18, 1994; Petition for Reconsideration of NYNEX Corporation, MD Docket No. 94-19, filed July 18, 1994. See also, Comments of SBC, 6 MD Docket No. 94-19, filed April 7, 1994.



Finally, SBC requests that the Commission specifically incorporate into its rules the August 16, 1994 clarification regarding the reporting of public mobile subscribers.

Respectfully submitted,

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